

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

1. **Introduction**

**WARREN DURHAM JR.,**  
**Plaintiff**

V.

**JAMES WASHBURN, ET AL.**  
**Defendants.**

C.A. No. 02-82 ERIE  
'07 MAR 22 P1:05  
CLERK  
U.S. DISTRICT COURT

## **APPLICATION FOR PREVAILING PARTY FEES**

COMES NOW, Warren Durham Jr., moving pro se in the above matter requesting prevailing party fees pursuant to 42 U.S.C. Section 1988. Obtaining a private settlement suffices to render a civil rights plaintiff a “prevailing party” eligible for statutory attorney’s fees when a federal district court retains jurisdiction to enforce the agreement. Buckhannon Board and Care Home, Inc. v. West Virginia Dept. of Health, 121 S.Ct. 1835 (2001). Its retention of jurisdiction necessarily made compliance with the terms of the agreement a part of its order so that a breach of the agreement would be a violation of the order. See: Farrar v. Hobby, 113 S.Ct. 566 (1992); Citicorp Venture Cap v. Committee Creditors, 323 F.3d 228 (3<sup>rd</sup> Cir.2003).

In federal civil rights actions, initial estimate of reasonable prevailing party fees is properly calculated by multiplying number of hours reasonably expended on litigation times reasonable hourly rate. Blum v. Stenson, 104 S.Ct. 1541 (1984). Below is Plaintiff's Chart of Time to Hours Used in the Lodestar Calculation:

### CHART OF HOURS WORKED

**Matter/Date:**

**Billable Hours Charge:**

**Petition for Return of Property, 9/10/97 .....10**

**Amended Petition for Return of Property, 10/08/97 .....15**

**Motion to Compel Return of Property, 11/10/99 .....12**

**Amended Motion to Compel the Return of Property, 12/13/99 .....10**

**CHART OF HOURS WORKED CONTINUED**

Petition for Writ of Mandamus, 3/23/00, .....	20
Motion to Compel the Return of Property or Equable Compensation, 7/22/00 .....	10
Notice of Appeal and Jurisdictional Statement, 8/11/00; 9/7/00 .....	20
Motion for Enforcement of Judgment, 2/6/01 .....	02
Letter of Assistance, 5/18/01 .....	10
Petition for Writ of Mandamus, 10/3/01 .....	20
Civil Rights Complaint, 42 U.S.C. Section 1983, 3/8/02 .....	65
Motion to Compel, 7/2/02 .....	05
Plaintiff's Objection to Defendant's Motion to Dismiss Complaint with Memorandum of Law in Support, 7/11/02 .....	65
Plaintiff's Objection to Defendant's Motion to Dismiss pursuant to Rule 12(b)(6), with Memorandum of Law in Support, 7/15/02 .....	65
Motion to Amend, 7/23/02 .....	05
Supplemental Response, 7/26/02 .....	60
Counter Statement, 8/6/02 .....	05
Motion to Supplement Complaint, 2/26/03 .....	05
Objection to Report and Recommendation, 3/3/03 .....	60
Notice of Appeal, 4/4/03 .....	05
Motion for Summary Action .....	70
Informal Brief, 8/5/03 .....	75
Petition for Rehearing, 2/3/04 .....	60
Writ of Certiorari, 5/9/04 .....	85
Supplement Petition for Writ of Certiorari, 5/19/04 .....	20
Motion to Supplement Complaint, 5/24/04 .....	10
Amended Complaint .....	65

**CHART OF HOURS WORKED CONTINUED**

Objection to Defendant's Motion to Dismiss .....	80
Objection to Report and Recommendation, 12/12/05 .....	25
Pretrial Memorandum and Request for Admissions/Interrogatories, 7/10/06 .....	50
Request for Admissions/Washburn, 7/13/06 .....	10
<b><u>TOTAL:</u></b>	<u>1019</u>

**MATTERS:****COSTS:**

Section 1983 Complaint .....	150.
U.S. Marshall Service Fees .....	32.
Appeal Fees .....	105.
Postage .....	90.
Copying Cost .....	150.
<b><u>TOTAL:</u></b>	<u>527.</u>

WHEREFORE, the Plaintiff respectfully request this Honorable Court enter an Order compelling the Defendants to compensate Plaintiff accordingly.

Respectfully submitted,

  
WARREN DURHAM JR.

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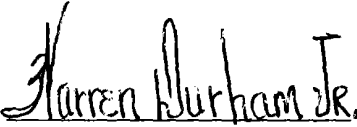
WARREN DURHAM JR.,	)	C.A. No. 02-82 ERIE
Plaintiff	)	
V.	)	
	)	
JAMES WASHBURN, ET AL.	)	
Defendants.	)	

**CERTIFICATE OF SERVICE**

I, Warren Durham Jr., hereby certify that a true and correct copy of the foregoing  
"Application for Prevailing Party Fees" was served by FIRST CLASS MAIL, postage prepaid, to the  
persons and addresses set forth below:

Gerald J. Villella, Esq.  
626 State Street  
Erie, Pa. 16501

David Ridge, Esq.  
246 West Tenth Street  
Erie, Pa. 16501

  
WARREN DURHAM JR.  
12119 MATHERSON AVE.  
CLEVELAND, OH. 44135

DATED: 3/20/07